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SUBJECT: POLITICAL CHANGES BRINGS UNCERTAINTY TO MEXICAN
FEDERAL TELECOM COMMISSION

REF: A. MEXICO 01080

[1](#)B. MEXICO 01716

SUMMARY

[1](#)1. (U) The Mexican Congress' passage in March 2006 of the Radio and Television Law has brought some uncertainty to Mexico's communication sector. All of the previous Federal Telecommunications Commissioners resigned shortly after its passage leaving the Federal Telecommunications Commission (COFETEL) more than two months without any decisionmakers. In addition, the Senate's rejection of the majority of the Fox Administration's initial nominees to COFETEL, coupled with a constitutional challenge to the new law filed by 47 Senators and several communitarian radio operators, have many wondering whether the new Commission and President can quickly implement much needed changes in order to make room for new technologies and convergence. Well-regarded telecom consultant Ernesto Piedras believes the new COFETEL board will need time to settle in since only one member has institutional knowledge of the current items on their agenda. He is concerned that the new Commission lacks an economic specialist who can analyze the financial impact of COFETEL measures, but he hopes that the new Commission will help build consensus with industry in order to address current and future technologies. End Summary.

RADIO AND TELEVISION LAW

[1](#)2. (U) On March 30, the Mexican Congress passed the Radio and Television Law (reftels). Per the new law, the President had 30 days to appoint four new COFETEL Commissioners and a President. Unlike the last commission, the commissioners' terms will be staggered to service lengths of 5, 6, 7, and 8 years. The President will also serve an 8 year term. The Permanent Committee of Congress rejected Fox's first list of commissioners except Jose Luis Peralta, a COFETEL engineer who filed a lawsuit against COFETEL but dropped it days after being named to the Commission for an 8 year term. According to press reports, the other nominees were rejected because they lacked sufficient experience in the sector (a constitutional requirement) or they had significant ties to Fox, the Partido Accion Nacional (PAN), the Finance Ministry, and Televisa. Two weeks ago, Fox sent a new list of commissioners to the Senate that included Francisco Gonzalez Abarca for a five year term, Eduardo Ruiz Vega, a telecom

consultant and academic, for a 6 year term, Partido Revolucionario Institucional (PRI) Senator Ernesto Gil Elorduy for a seven year term, and PAN Senator Hector Osuna for an 8 year term as COFETEL President. The inclusion of two Senators seemed to come as a surprise to many experts especially since Senator Osuna had told many people that he would be running for Governor of Baja California in 2008 (his office has told us he will not run and is now focusing on this new endeavor) and the other Senator has no telecommunications experience. Another surprise was the exclusion of a well-respected academic and consultant Ernesto Piedras. Piedras surprisingly supported adoption of the Radio and Television law and was frequently mentioned during the "search" for commissioners.

13. (U) Econoff and Econ Specialist met with telecom consultant, Director of the Intelligence Competitive Unit, and academic from the Mexican Autonomous Technological Institute (ITAM), Ernesto Piedras to discuss the most recent telecom-related political events as well as what is on the horizon for industry and government.

14. (U) Piedras stated that Televisa, TV Azteca, and Telmex pressured PRI and PAN congressmen to quickly approve the Radio and Television law in order to give them some protection in the case of a Partido de la Revolucion Democratica (PRD) Andres Manuel Lopez Obrador victory. Despite some colleagues' strong criticism of the law, Piedras feels it is the first positive step towards modernizing the sector and moving forward with convergence. By staggering the commissioners' terms, he believes continuity will be given to COFETEL's projects.

15. (SBU) Piedras admitted that the law has some holes but believes that COFETEL could approve regulations to close the

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gap but warns such a process should be open and include input from industry, legislators, government officials, consumers, and academics. Although, the process could take up to two years, he believes SCT has already written regulations and could share them with industry. Piedras claims most of the opposition to the law came from communitarian radio station owners who argued that it promotes unfair competition. Piedras alleged some of these stations in Guerrero and Chiapas are being utilized by radical leftist groups in Bolivia, Venezuela, and Mexico's PRD to send messages.

16. (U) Forty-seven Mexican Senators and several communitarian radio operators filed a Constitutional challenge to the new law citing that it violates the Constitution. Piedras can't find any sufficient legal grounds for this challenge to proceed and believes it is unlikely that the Supreme Court would reverse the law because that would mean nullifying the COFETEL board and the sector can't continue to fall behind while waiting for a new Commission to be named.

THE NEW COFETEL

17. (SBU) Piedras says the sector supports the new COFETEL but understands that it will have to work closely with it to accomplish its goals. He admits that there is some fear among companies that COFETEL will be partial and favor dominant players like Telmex, Televisa, and TV Azteca especially with two politicians on the Commission. Piedras pointed out that one Senator lacks telecommunications experience and that the Commission has a lawyer and an engineer, but it doesn't have an economist. Piedras said he was informed that Telmex requested his name be removed from the President's list of potential nominees. Piedras suggests the Commission create a Consultation Council made up of industry, consumers, specialists, and academics to ensure follow-up on key projects. Currently, consumers are not able

to participate in the regulatory process.

MERGING THE OLD WITH THE NEW

18. (SBU) Piedras noted that industry has been divided on many issues and they must start a healing process to unite to work on common objectives. He also urged the President and the Secretariat of Communications and Transport (SCT) to construct a Telecommunications Policy Plan to prepare for convergence and "new generation" technologies. However, according to Piedras, the GOM has yet to implement a clear and consistent convergence policy. The convergence agreement is conflicting. The agreement fails to give autonomy to cable TV companies to provide telephone services directly, yet a modified version of the agreement will give Telmex video services immediately. Telmex, ironically believes that Nextel's concession doesn't allow it to provide mobile phone services. Piedras says Mexico's convergence policy does not encompass all services, what he refers to as "quadruple" play because it doesn't include mobile phone services.

19. (SBU) Piedras believes COFETEL and the SCT have to focus on constructing regulations to prepare for these changes. He believes that COFETEL, SCT, and industry have spent too much time stuck on past regulatory decisions. Since some Mexican officials believe Voice over Internet Protocol (VoIP) businesses are free-riders, they have avoided dealing with them and the technology they market. In addition, previous commissions have not made the decision to use electrical wire for telecom services even though the Federal Electricity Commission is ready to install it.

WHAT NEEDS TO BE DONE?

10. (SBU) While noting that Mexico prefers an independent approach, Piedras believes foreign companies need to pressure the government for change. By sharing best practices, foreign industry and governments can also show the GOM what they can do to help Mexico stay competitive. In addition, Piedras hopes that regional frameworks such as the Security and Prosperity Partnership (SPP) can help to strengthen and standardize Mexican regulations. Piedras promotes using

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conferences to educate the public, but warns that sponsorship must be from a credible source. Although Piedras believes the work of IMCO, the Mexican Competitiveness Institute, is good because it provides basic, easy-to-understand statistical analysis, he cautions that the Institute thrives on resources from the private sector and special interests and that their results could be skewed. Piedras stressed that Mexico cannot move forward without somehow including the voice of the consumer. "If they participate more, they can demand more competition and cheaper prices", he said.

COMMENT

11. (SBU) Piedras is one of Mexico's most well-respected experts on telecommunications and technology. Econoff was surprised that he was so active in supporting passage of the Radio and Television Law. His support placed him against other experts like Javier Lozano, former Undersecretary of Communications, former COFETEL President and potentially the next Secretary of Communications and Transport in a Calderon Government. Lozano has claimed that the new law would violate the Constitution and merely increase the powers of established monopolies. As is widely known, the question of monopoly influence in Mexican telecommunications remains central to liberalization in this sector, including key issues such as how will spectrum freed up under

digitalization will be recognized and utilized.

¶12. (SBU) Piedras is correct when he says industry groups (including the monopolies) must unite to work on common objectives. Without industry pressure, COFETEL will be slow to move on any new measures. That said, initial conversations with the COFETEL President's office and press reports indicate the Commission has a steep learning curve and will likely proceed quite cautiously. For the moment, we continue to expect few changes in the near-term and little movement towards implementing new generation technologies.

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